

Council on Postsecondary Education
July 22, 2002

Michael Minger Act,
Campus Security Public & Private Institutions
Administrative Regulation Amendment

Action: The staff recommends that the council approve amendments to two existing administrative regulations, entitled *13 KAR 2:100. Campus security, public institutions* (copy attached) and *13 KAR 1:030 Campus security, private institutions* (copy attached), and direct that the staff file the administrative regulations with the Legislative Research Commission and make such changes in the administrative regulations as shall be necessary as a result of the statutory review process.

There are two administrative regulations that are almost identical, one for the public institutions and another for the private institutions. The proposed changes will be identical for each administrative regulation.

The campus security administrative regulations should be revised to:

- Comply with approved changes by the 2002 Kentucky General Assembly defining the word "immediate."
- Clarify what is meant by "clearing a fire scene."
- Assess new penalties for violation of the Minger Act.
- Create a special education and training fund.
- Conform the current administrative regulation to the requirements of House Bill 829 (2002 Kentucky General Assembly).

These changes will assist public and private institutions in complying with the requirements of the Michael Minger Act and House Bill 829 (2002 Kentucky General Assembly) and assure that timely information is provided to consumers who are interested in safety and security issues on college and university campuses.

The attachment presents the proposed changes to the Michael Minger Act, campus security administrative regulations.

The administrative regulation review process takes place over a four-to-six month period and requires two public hearings. The administrative regulations will be filed prior to August 15. The projected completion date for the process is October 15.

The council staff proposes incorporating additional changes that may result from the hearings into the council's administrative regulation. The final regulation, with any additional amendments, will be presented to the council at the conclusion of the review process.

Staff preparation by
Dennis Taulbee and Ed Sergeant

1 COUNCIL ON POSTSECONDARY EDUCATION

2 (Amendment)

3 **13 KAR 1:030. Campus security, private institutions.**

4 RELATES TO: KRS 164.948 to 164.9489, 164.993, 227.200, 227.230, 34 CFR 668.46,
5 20 USC 1092(f), House Bill 829 (2002 REGULAR SESS.).

6 STATUTORY AUTHORITY: KRS 164.020(28), (34)

7 NECESSITY, FUNCTION, AND CONFORMITY: The Michael Minger Act, KRS
8 164.948 to 164.9489, requires public postsecondary education institutions and those private post-
9 secondary education institutions licensed by the Council on Postsecondary Education to report
10 campus crimes to employees, students and the public and to report annually to the Council on
11 Postsecondary Education. KRS 164.9481(1)(a) requires the council to approve a form for the
12 daily security log maintained by each institution. KRS 164.9487(2) requires the council to spec-
13 ify uniform reporting formats for each institution's annual report to the council, in compliance
14 with KRS 164.9485. KRS 164.9483(1) and (2), and 227.220(3)(b), authorize the State Fire Mar-
15 shal to enter in or upon the property of a postsecondary education institution licensed by the
16 council. This administrative regulation addresses the responsibilities of private, independent
17 postsecondary education institutions licensed by the Council on Postsecondary Education.

18 Section 1. Definitions. (1) "Annual report" means the report submitted by an institution to
19 the council that satisfies the requirements of KRS 164.9485.

20 (2) "Campus" is defined in KRS 164.948(1).

(3) "Campus crime log" means the daily log maintained by an institution and developed by the council consistent with the provisions of KRS 164.9481(1).

(4) "Campus security authority" is defined in KRS 164.948(2).

(5) "Clery Act" means the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 USC 1092(f) and as implemented in 34 CFR 668.46.

(6) "Council" means the Council on Postsecondary Education as established by KRS 164.011.

(7) "Crime" is defined in KRS 164.948(3).

(8) "Immediately" is defined in KRS 164.948(4).

(9) "Institution" means a private, independent postsecondary education institution as defined in KRS 164.948(4).

(10) ~~{(9)}~~ "State Fire Marshal" means the officer described in KRS 227.220.

Section 2. Property Subject to Reporting. (1) An institution shall establish a list of all property the institution:

(a) Owns; or

(b) Manages or controls.

(2) The list of property shall include the areas described in KRS 164.948(1) and in 34 CFR 668.46(a), "Campus:" (1) and (2) and "Noncampus Building or Property:" (1) and (2).

(3) The list shall be updated as necessary but not less than annually.

(4) An institution shall provide the property list to the council upon the council's request.

Section 3. Campus Crime Log. (1) An institution shall maintain a campus crime log as required by KRS 164.9481(1).

(2) The campus crime log shall include each data element required by KRS 164.9481(1).

1 (3) An institution shall develop and maintain a written policy that:

2 (a) Ensures crime log information is available to the public as soon as possible, but no
3 later than the time frame specified in KRS 164.9481(1)(b); and

4 (b) Is subject to the limitations established in KRS 164.9481(1).

5 (4) The policy shall state that the institution shall not withhold information except as pro-
6 vided in KRS 164.9481(1).

7 (5)(a) An institution may archive campus crime log entries after sixty (60) days have
8 elapsed from the date when an incident report was reported.

9 (b) An institution that elects to archive campus crime log entries shall respond, within
10 two (2) business days, to a request for material that has been archived.

11 Section 4. Special Reports. An institution shall report, in writing, to the council on how it
12 shall comply with the provisions of KRS 164.9481(2).

13 Section 5. Crime. The meaning of a crime listed in KRS 164.948(3) shall be consistent, to
14 the extent possible, with the definitions and standards established in the Uniform Crime Report-
15 ing System of the federal government, and with the Kentucky Revised Statutes, where appropri-
16 ate.

17 Section 6. State Fire Marshal and Threat of Fire. (1) A threat of fire includes:

18 (a) A fire alarm, except as provided in subsection (2) of this section; and

19 (b) An expression of an intention by a person to engage in destructive burning or explo-
20 sion.

21 (2) A threat of fire does not include an alarm triggered for the purpose of:

22 (a) Maintenance testing; or

23 (b) Fire drill.

(3) A threat of fire or fire ~~[actual alarm]~~ shall be reported immediately by the campus authority designated pursuant to KRS 164.9483(4):

(a) The State Fire Marshal; and

(b) The local fire department.

(4) An institution shall maintain a fire scene until cleared by the state fire marshal's office in accordance with KRS 164.9483(4).

Section 7. Annual Report. Each institution shall file an annual report, as required by KRS 164.9485, using ~~[the format described in this section.~~

~~(1) A heading that shall appear, at the top of each page, as follows:~~

~~(Name of Institution)~~

~~The Michael Minger Act Report for (Calendar Year Report Submitted)~~

~~Activity Reported for Calendar Year (Calendar Year in Which Crime Reported)~~

~~(2) Each institution shall submit to the council, in accordance with KRS 164.9485, an annual report using] form MMA1, incorporated by reference.~~

Section 8. Enforcement. (1) KRS 164.993 provides civil and criminal penalties for a violation of KRS 164.9481 and 164.9483.

(2)(a) A person, including campus personnel, who has reason to believe that any person has violated, or knowingly induced another person, directly or indirectly, to violate KRS 164.9481 and KRS 164.9483 may register a complaint with the State Fire Marshal's Office.

(b) A person who has reason to believe that any person has violated KRS 164.9481 or 164.9483 may register a complaint with the county attorney in the county where the institution is located.

1 (3) The state fire marshal has the authority to assess and collect civil fines pursuant to
2 KRS 164.993 which are to be paid into the state treasury and retained in an account titled “The
3 Michael Minger/Priddy Fire Prevention Fund pursuant to House Bill 829 (2002 REGULAR
4 SESS.).

5 Section 9. Incorporation by Reference. (1) "MMA1, 1/2001" is incorporated by reference.

6 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
7 law, at the Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, Frank-
8 fort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Sue Hodges Moore
Interim President
Council on Postsecondary Education

Date

APPROVED AS TO FORM:

Dennis L. Taulbee
General Counsel
Council on Postsecondary Education

Date

1 COUNCIL ON POSTSECONDARY EDUCATION

2 (Amendment)

3 **13 KAR 2:100. Campus security, public institutions.**

4 RELATES TO: KRS 164.948 to 164.9489, 164.993, 227.200, 227.230, 34 CFR 668.46,
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(6) "Council" means the Council on Postsecondary Education as established by KRS 164.011.

(7) "Crime" is defined in KRS 164.948(3).

(8) "Fire scene" means the immediate area necessary for a local fire department or the state fire marshal's office to investigate an actual fire.

(9)"Immediately" is defined in KRS 164.948(4).

(10) "Institution" means a public postsecondary education institution as defined in KRS 164.948(4).

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Interim President
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